



Ninety-Ninth Legislature - First Session - 2005
Revised Committee Statement
LB 538

Hearing Date: February 16, 2005

Committee On: Judiciary

Introducer(s): (Brashear)

Title: Change provisions relating to drug offenses, probation, parole, and work camps

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7	Yes	Senators Aguilar, Bourne, Chambers, Combs, Flood, Friend, Pedersen
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No

1	Present, not voting	Senator Foley
	Absent	

Proponents:

Senator Kermit Brashear
John Hendry
Linda Krutz
David Wegner
Joe Kelly
John Krejci

Representing:

Introducer
Nebraska Supreme Court
Community Corrections Council
Administrative Office of Courts/Probation
Community Corrections Council
Nebraska Chapter National Association of Social Workers

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 538 proposes a number of statutory changes recommended by the Community Corrections Council as necessary to further the development of community corrections programs and services initiated by the passage of LB 46 in 2003.

The following statutory changes are proposed in LB 538:

Forfeiture

- Amends Nebraska's forfeiture statutes to clarify that forfeiture is a civil rather than a criminal proceeding;
- Changes the required burden of proof in forfeiture actions from beyond a reasonable doubt to preponderance of the evidence;
- Allow courts to permit individuals to proceed in forma pauperis when challenging a forfeiture;
- Provide for the appointment of counsel for indigent persons in forfeiture actions;
- Require fifty percent of forfeiture proceeds provided to County Drug Law Enforcement and Education Funds to be used for substance abuse treatment.

Community Corrections

- Adds a member to the Community Corrections Council from the Department of Health and Human Services;
- Requires the Community Corrections Council to study, recommend and evaluate the implementation of substance abuse treatment services as part of its statutory duties;
- Clarifies that the Community Corrections Council is an independent entity and located within the Crime Commission for administrative support and budgetary purposes only;
- Adds language to ensure that problem-solving and drug courts are within the scope of community corrections similar to those currently paid by probationers;
- Requires individuals participating in problem-solving or drug courts to pay administrative and supervision fees;
- Adds an intensive residential substance abuse treatment program to the Work Ethic Camp;
- Clarifies the language regarding eligibility for participation in the Work Ethic Camp.

Probation & Parole

- Amends the crime of assault on an officer to include assault on a probation officer or an employee of a youth rehabilitation and treatment center;
- Authorizes the Supreme Court to assign probation officers to participate in drug court programs and other specialized programs if such participation does not increase the workload of the assigned officer or any other probation officer;
- Requires the periodic validation of risk and needs assessments used by the Offices of Probation and Parole Administration;

Explanation of amendments, if any:

The committee amendment makes the following changes to the bill as introduced:

- Removes sections 1-11 of the bill relating to forfeiture of money or property used in the commission of drug crimes.
- Removes employees at youth rehabilitation and treatment centers from the definition of officer for the purpose of the criminal offense of assault on an officer.
- Defines the term non-probation-based program or service for purposes of the Nebraska Probation Administration Act.
- Authorizes the probation administrator to enter into interlocal agreements with political subdivisions to provide probation resources or personnel to assist with the operation of drug courts, problem solving courts or other non-probation based programs or services. Probation resources or personnel cannot participate or be used for these programs absent an interlocal agreement.
- Requires that a political subdivision which is party to an interlocal agreement with probation administration shall cover all the costs associated with the use of probation resources or personnel other than costs paid for with funds from the probation program cash fund or with substance abuse treatment funds provided by the Community Corrections Council.
- Clarifies that only participants in non-probation-based programs and services which utilize probation resources or personnel and which receive funding from the Community Corrections Council or Probation Program Cash Fund are required to pay the one-time \$30 administrative enrollment fee and the \$35 monthly programming fee currently assessed to persons placed on intensive probation.
- Adds the Statewide Coordinator for Problem-Solving Courts to the Community Corrections Council as a non-voting member.
- Directs the Community Corrections Council to conduct a study over the interim relating to the merger of the Offices of Parole Administration, Probation Administration, Community Corrections council, and the administration of problem-solving courts into a single Community Justice Agency.
- Changes from shall to may, the requirement that the Work Ethic Camp develop an intensive residential drug treatment program.

Senator Patrick J. Bourne, Chairperson